

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED 
CLERK'S OFFICE

DEC 09 2024

DERRICK LEE CARDELLO-SMITH, #267009,
Plaintiff,

U.S DISTRICT COURT
EASTERN MICHIGAN

Vs

Case No 2:24-cv-12647

SEAN COMBS,
Defendant,

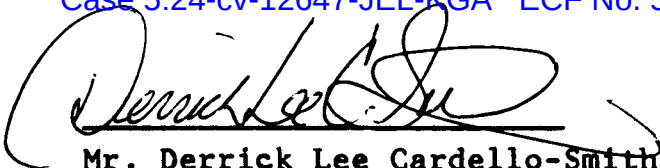
hon. Judith Levy

_____ /

PLAINTIFFS DEMAND FOR A JURY UNDER THE FEDERAL RULES
OF CIVIL PROCEDURE 38 (a)(b)(1)(2)(c) OF THE SPECIFIED ISSUE
TO DETERMINE THE ISSUE OF THE STATUTE OF LIMITATIONS
AND NOT THE TRIAL COURT WHERE THE PLAINTIFF WAS
SEXUALLY ASSAULTED IN THE STATE OF MICHIGAN
AND MY FELLOW PEERS SHOULD APPLY THE DECISION-MAKING TO THIS
MATTER AND MAKE THE FINAL DETERMINATION OF DEFENDANTS GUILT OF INNOCENCE

Plaintiff hereby Enters this Demand for a a Jury Trial and makes this Right to a Jury Trial pursuant to Federal Rules of Civil Procedure 38(a)(b)(1)(2)(c) and states the following grounds that this Plaintiff has a Right to have the Jury Decide as allowed by the State Constitutional provisions of June 19, 1904, 48 Stat. 1064 U.S.C. Title 28, § 723c[Sec 2072] and U.S.C. Title 28 § 770 (Trial issues of Fact); by Jury. and submits the following arguments in support of the Plaintiffs right to have a Jury Decide the facts of the Statute of limitations as allowed by this very specified issues listed herein the attached Brief in Support.

Thank you for your time in this matter.

A handwritten signature in black ink, appearing to read "Derrick Lee Cardello-Smith", is written over a horizontal line.

December 12, 2024

Mr. Derrick Lee Cardello-Smith

#267009

E.C. Brooks Correctional Facility

2500 S. Sheridan Drive

Muskegon, MI 49444

BRIEF IN SUPPORT

Plaintiff states that Plaintiff is entitled to a JURY TRIAL BY CONSTITUTION AND FEDERAL RULES OF CIVIL PROCEDURE 38 AND THAT A JURY MUST BE ALLOWED TO DECIDE THE ISSUES OF THE STATUTE OF LIMITATIONS AND THE PERSONAL INJURY CLAIM OF SEXUAL ASSAULT COMMITTED UPON THE PLAINTIFF BY DEFENDANT SEAN COMBS and states the following grounds in support of this court granting he relief sought by Plaintiff.

1. Plaintiff has a Constitutional Right to have the Jury Decide the Facts, all facts of this case.

2. The Plaintiff stated that Neither the Court nor Congress can enact any law, or order that Impedes, Delays, stops, or Interferes with a Citizens Rights to Not Be Sexually Assaulted or any right to not have a Jury decide the facts of a case before it.

3. The Defendants have Moved for Dismissal on the Grounds of the Statue of limitations and Service. This court has shown that it agrees with Service not being rendered properly and ruled against this Plaintiff who believes service was made properly under MCR 2.105 (B), this court has deemed it irrelevant and said that plaintiff has simply ignored MCR 2.105 A. Plaintiff disagrees and believes that this is a Matter for a Jury to Hear and Decide as the Constitution and Court Rule Allows to be done.

4. Defendants have Moved for Dismissal on the Grounds of Statute of limitations...Plaintiff has countered with Waivers of the Statute of Limitations, based on Extraordinary Circumstances, Continuing Violations Doctrine, Emerging Doctrine, Threats of Murder and retaliation if Plaintiff filed it before Sean Combs homes were raided in March 2024, Threats to the Plaintiffs Family and Friends and Other Co -Investors, (See Plaintiffs Answer to Defendants Motion to Dismiss.

5. Plaintiff believes that this Court will not Rule in this

Plaintiffs Favor and Apply the Wrong Laws of Case law against this Plaintiff and will continue to not base its decision on facts of Law and Clear Court rule but will simply cast aside the Rules and Laws this Plaintiff has made and issue rulings in favor of the Defendants, as has been done in the Motions to Remand, and, this will greatly impact the Plaintiffs Right to a Fair Jury Trial and the Right to have the Jury Decide the Facts, and Plaintiff believes that this Court is clearly against this Plaintiff and Favorable to the Defendants, simply because the Plaintiff is a Prisoner and because the Plaintiff has a Judgement in the Trial Court for a Huge Amount and neither the Defendants Lawyers, Or the Court wants a Prisoner to have this kind of money for being raped, and the Court has looked at this Plaintiff being a Prisoner and Not a Rape Victim and has taken a stance against this plaintiff who has been victimized by the defendant and the only way to ensure that this is not happening, would be to Allow a Jury to Hear thee facts, and to ensure it is decided fairly and equally.

6. Plaintiff Believes and states that he only way to get the facts heard fairly and properly is in front of a Jury and Plaintiff now invokes that Constitutional Right to a Jury Trial, because Plaintiff believes that if this matter remains with the Judge rendering the decisions, then it will simply GRANT THE DEFENDANTS MOTION TO DISMISS and this case will be gone and the defendant will have gotten away with raping this Plaintiff, and the only way to ensure that this does not happen is to have this matter heard by a Jury of the Plaintiffs Peers.

7. Plaintiff states further that this Court has decided that it will not even allow Oral arguments on this matter, and has greatly prejudiced the Plaintiff by keeping this matter reduced to simply Mail Filings when it should be heard in an open Forum and Discussed Publicly, and in doing so, it would ensure Fairness and having the matter be opened to the Public will also ensure that the Plaintiffs Rights are not being violated simply because the Plaintiff is a prisoner and will

ensure the Court is not treating the Plaintiff as a Simple Prisoner, but in fact a Rape Survivor and a Litigant against a Giant of a Defendant, and it will show the Public Interest is being served properly.

8. Plaintiff believes that this Court must allow this Matter to proceed to a Jury Trial under Federal rules of Civil Procedure 38 (a) cannot be violated where it states the following:

The Right of a Jury Trial as declared by the Seventh Amendment to the Constitution-or as provided by a federal Statute--is preserved for parties inviolate."

I am therefore, reserving and invoking my right to a Jury Trial on this Matter of the Statute of Limitations and the Entire Motion to Dismiss and the Complaint and entire history of this case.

9. Plaintiffs Demand for a Jury Trial...FRCP(38)(b) states the following:

"Demand, On any issue triable of right by a jury, a party may demand a trial by:

(a) Serving the other parties with a written demand--which may be included in a pleading-no later then 14 days after the last pleading directed to he issue is served; and

(2) filing the demand in accordance with rule 5(d)."

Plaintiff can say that this is mailed within 14 days of the last pleading as that it is being included in pleadings mailed to this court in a variance of other motions on the date of this being received by the court.

10.

SPECIFICATION OF ISSUES SOUGHT FOR TRIAL ON--FRCP38(c) provides that. "In its demand, a party may specify issues that it wishes to have tried by a Jury; otherwise it is considered to have demanded a jury trial on all the issues so triable-- In this case, the Plaintiff wishes to have the Jury Decided ALL ISSUES BEFORE THIS COURT--Not just any one particular, BUT ALL ISSUES INVOLVED IN THIS MATTER---and most importantly, THE ISSUES CONTAINED WITHIN THE DEFENDANTS MOTION TO DISMISS,

'STATUTE OF LIMITATIONS, LACK OF PERSONAL JURISDICTION, FAILURE TO SERVE, AND THE CRIMINAL CONSPIRACY BY WAYNE COUNTY GOVERNMENT OFFICIALS TO COVER-UP THE CRIME BETWEEN 1997 AND 2024. Plaintiff would and is DEMANDING A TRIAL ON THESE ISSUES BY A JURY OF THE PLAINTIFFS PEERS, not the court.

11. Plaintiff believes that this matter should be made OPEN TO THE PUBLIC AND NOT KEPT QUIET AS THAT IT WILL ALLOW OTHER VICTIMS OF SEXUAL ASSAULT BY THIS DEFENDANT AND HIS ACCOMPLICES TO COVER IT UP TO BE HELD TO ACCOUNT AND OTHER VICTIMS TO COME FORWARD AND NOT BE SCARED BY THE ACTIONS OF THE DEFENDANT SEAN COMBS, and not be scared by a Courts failure to allow the Public to hear this case.

This Plaintiffs right to a Jury trial cannot be violated by this Court and it should be upheld by the Court and this matter should be allowed to proceed to a Jury Trial Immediately because it is the Plaintiffs Right to have a JURY HEAR THERE ISSUES and Plaintiffs asks the Court to Allow a Jury to hear these issues and claims set forth, immediately and in accordance with the Seventh Amendment to the Constitution of the United States.

12. Plaintiff Demands a Trial on these Claims and Demands the Court allow the Plaintiff to have a trial be conducted in this matter on the Issues Related to the Plaintiffs Complaint, Notice of Removal to this Court, the Statute of Limitations, Service, and other factors raised by the Plaintiff and the Defendant in this matter.

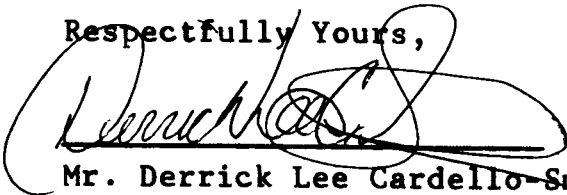
As such, Plaintiff states to this Court that there can be no mistake on this matter of the Plaintiffs Right to a Constitutional Protection to have a Trial by Jury on Any issue and the Issues before this Court are in fact Triable as that that is what the Court and Jury System is for, to resolve Injury, crimes and other matters is dispute, accusation, claims, controversy and most importantly, the Diversity of Residence and Citizenship, and Plaintiff strongly asserts that this Court cannot simply cast aside my right to a jury trial

on this or any other issues and factors that are before it as the 7th Amendment gives me this right to a a Jury Trial and no law, rule, statue or court can violate this constitutional right and I am asserting, invoking and asking this court to grant my demand for jury trial on these many issues as allowed by the State Constitution and the Federal Ruled of Civil Procedure 38(a)(b)(c) and that it is scheduled immediately on these matters as given and listed herein by this Plaintiff in the Demand and relief sought.

RELIEF SOUGHT

Wherefore, Plaintiff prays this court will enter an order to Grant a Jury Trial on the Issues in the Complaint, and Defendants Motion to Dismiss and the Plaintiffs answer to the Defendants Motion to Dismiss and any other claims related to this matter, and set a Date for Jury Trial and grant any further proceedings or relief necessary and Appropriate.

Respectfully Yours,



12-2-24

Mr. Derrick Lee Cardello-Smith

#267009

Plaintiff

E.C. Brooks Correctional Facility

2500 S. Sheridan Drive

Muskegon, MI 49444

Mr. Derrick Lee Cardello-Smith
#267009
E.C. Brooks Correctional Facility
2500 S. Sheridan Drive
Muskegon, MI 49444

Mailed on 12-2-2
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